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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION : UNION COUNTY  
CRIMINAL - 97-02-00123

STATE OF NEW JERSEY,

vs.

MARVIN MATHIS,

Defendant,

: Stenographic Transcript  
: of  
: Trial Proceedings  
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:

Place: Union County Courthouse  
2 Broad Street,  
Elizabeth, New Jersey,

Date: JUNE 17, 1998 - MORNING SESSION

B E F O R E:

HON. JOHN F. MALONE, J.S.C., & JURY

TRANSCRIPT ORDERED BY:

OFFICE OF THE PUBLIC DEFENDER  
Appellate Section

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1 JUNE 17, 1998.

2 THE COURT: Bring the jurors out, please.

3 (Jury seated in the jury box in the courtroom.)

4 THE COURT: Mr. Mathis, if you would please take your  
5 seat in the witness stand.

6 M A R V I N M A T H I S

7 Resumed the stand and further testified as follows:

8 CROSS EXAMINATION BY MR. KOLANO (CONT'D)

9 THE COURT: Mr. Mathis, let me remind you that you are  
10 still under oath.

11 Mr. Kolano, you may resume the cross examination.

12 Q. When we left off yesterday you indicated your first  
13 statement was largely a lie?

14 A. Yes.

15 Q. And you heard the, quote, character witnesses, some of  
16 your teachers talk about your reputation for honesty?

17 A. Yes.

18 Q. You would now have to disagree with that because you  
19 did tell a number of lies under oath, did you not?

20 A. Only reason I made that first statement, you know, that was  
21 a lie I was confused, I was scared. Plus, you know, they was  
22 like putting words in my mouth, you know, trying to pull names  
23 out.

24 Q. So now you are telling us that you agree that it was a  
25 lie?

MARVIN MATHIS - CROSS BY KOLANO

4

1 A. Yes.

2 Q. And now you are saying it's because you were confused  
3 and afraid. Right?

4 A. Yes.

5 Q. And you were afraid of the police?

6 A. Yes.

7 Q. And didn't you remember yesterday on direct  
8 examination even your attorney said that the police did not  
9 mistreat you in any way shape or form?

10 A. Yes.

11 Q. And you agreed with that, right?

12 A. Yes.

13 Q. And in fact I asked you that question just to confirm  
14 that the police treated you respectfully, correct?

15 A. Yes.

16 Q. But today you are saying they were putting words in  
17 your mouth?

18 A. Yes.

19 Q. You would agree with your teachers that you had  
20 another side to your life other than what your teachers saw or  
21 knew of you, is that correct?

22 A. Another side of my life?

23 Q. When you got home from school you had, you hung out  
24 with a different crowd?

25 A. Yes.

MARVIN MATHIS - CROSS BY KOLANO

5

1 Q. Now, Antwan Harvey, you indicated yesterday on direct  
2 examination that you have known him for a good little bit of  
3 time I think were your words?

4 A. Yes.

5 Q. And that would be about six years?

6 A. Six or five years.

7 Q. And that was six or five years up until the time of  
8 the shooting, right?

9 A. Yes.

10 Q. And would it be fair to say that you and he were  
11 friends?

12 A. We was friends, but we wasn't close.

13 Q. I think you indicated on direct examination that you  
14 expected to see Antwan every day or every other day at a  
15 minimum?

16 A. Yes.

17 Q. And where would you generally see Antwan?

18 A. Like if I go to my own cousin house to see my little cousin  
19 I will see him like on the corner of the streets.

20 Q. And you would go to see your little cousin every day,  
21 every other day?

22 A. Yes.

23 Q. Antwan would be hanging out in the streets?

24 A. Yes, or he would be at my own cousin house.

25 Q. Antwan would be at your cousin's house. Where was

MARVIN MATHIS - CROSS BY KOLANO

6

1 this located?

2 A. This was on Third.

3 Q. Third. Where specifically on Third?

4 A. On Third and Bond.

5 Q. Does it have an address number?

6 A. 232, 233, something like that.

7 Q. Is that different from Migdalia's house?

8 A. Next door.

9 Q. Next door to Migdalia's house?

10 A. Yes.

11 Q. Did Antwan ever come to your house?

12 A. No.

13 Q. Did you ever go to Antwan's house?

14 A. No.

15 Q. So the nature of your relationship would basically be  
16 in passing?

17 A. Yes.

18 Q. Now, did you have any animosity towards Antwan?

19 Did he ever do anything to hurt you?

20 A. I was small.

21 Q. How small?

22 A. When I was like ten or eleven.

23 Q. I assume then -- you tell me if I am wrong -- that you  
24 didn't hold a grudge?

25 A. No.

MARVIN MATHIS - CROSS BY KOLANO

7

1 Q. Because you continued to be friends, even though not  
2 real good friends, right?

3 A. Yes.

4 Q. Now, I think you indicated yesterday that you had gone  
5 to school on the 22nd?

6 A. 22nd. Yes.

7 Q. And that was a Monday?

8 A. Correct.

9 Q. And then from there where did you go?

10 A. From there, from there I went to, I went home.

11 Q. And from home where did you go?

12 A. After I left home. Helped my mother take clothes to the  
13 laundromat, then when she got finished and stuff that's when I  
14 went on Third.

15 Q. You said, yesterday you said you went to Megdalia's.

16 A. Yes.

17 Q. Where did you live at that time?

18 A. At that time Third, 538 Magnolia Avenue.

19 Q. Where was Magnolia Avenue in relation to Third Street?

20 A. Third Street that's like downtown. Where I live that's  
21 midtown.

22 Q. And where is your house in relationship to Migdalia's  
23 house?

24 A. Good little walk.

25 Q. Can you give us an idea what you mean by good little

MARVIN MATHIS - CROSS BY KOLANO

8

1 walk?

2 A. Like a good ten, fifteen minutes to get to my house, to her  
3 house.

4 Q. And this day, the 22nd, you came home from school, you  
5 did whatever you did, and then you went to Migdalia's house?

6 A. Yes.

7 Q. Was that a regular occurrence for you?

8 A. Not really.

9 Q. Approximately how many times a week would you go to  
10 Migdalia's house?

11 A. I would go there like twice, or three, three times a week.

12 Q. Usually after school?

13 A. No. No.

14 Q. Migdalia's house was a place where Migdalia lived?

15 A. Yes.

16 Q. And Stephen Owens lived there?

17 A. Yes.

18 Q. His nickname was?

19 A. Crazy.

20 Q. Crazy?

21 A. Yes.

22 Q. And who else lived there?

23 A. Her two kids.

24 Q. Migdalia's two kids?

25 A. Yes.

MARVIN MATHIS - CROSS BY KOLANO

9

1 Q. Were you close with Migdalia?

2 A. We wasn't close, but, you know, we talked.

3 Q. Were you close with Stephen Owens, Crazy?

4 A. Yes.

5 Q. How close were you with Crazy?

6 A. It was close.

7 Q. Closer than you were with Antwan or about the same?

8 A. About the same.

9 Q. And I assume you weren't close with Migdalia's  
10 children since they were small?

11 A. Yes, I was close with them.

12 Q. You were close with them.

13 On this day why did you go to Migdalia's?

14 A. That day?

15 Q. Yes.

16 A. I just went over there.

17 Q. What did you do there?

18 A. I can't remember what I did over there, but I know I went  
19 over there to talk to Migdalia, I was talking to Steve, then I  
20 left the house.

21 Q. How long were you there?

22 A. Not that long. Like thirty-five minutes.

23 Q. So what time did you leave Migdalia's?

24 A. I left Migdalia house like around six.

25 Q. Isn't it true one of the reasons why you like to go to

MARVIN MATHIS - CROSS BY KOLANO

10

1 Migdalia's is because you could party there?

2 A. Party there? No.

3 Q. Drink?

4 A. No.

5 Q. Never drank there?

6 A. No.

7 Q. Ever make a video tape there?

8 A. Yes.

9 Q. Ever see that video tape?

10 A. No.

11 Q. What did you video tape, that you remember?

12 MR. FLORCZAK: Judge, I object, unless there is some  
13 relevancy.

14 MR. KOLANO: Prior inconsistent statement, your Honor.

15 THE COURT: Let me hear you at side bar.

16 (PROCEEDINGS AT SIDE BAR).

17 MR. FLORCZAK: Judge, I don't know what prior  
18 inconsistent statement he is talking about.

19 MR. KOLANO: He said he didn't drink. He is on video  
20 tape chugging away on number of difference occasion.

21 MR. FLORCZAK: Number one, the video tape does not  
22 show him drinking at all.

23 MR. KOLANO: Then we will play it.

24 MR. FLORCZAK: Fine. Let's play it, judge.

25 It shows him holding a microphone. I don't believe it

MARVIN MATHIS - CROSS BY KOLANO

11

1 shows him drinking.

2 In any case, I don't understand where there is a prior  
3 inconsistent statement.

4 THE COURT: Just now the question was asked did he  
5 drink at Migdalia's, and he said no. And I think now the state  
6 is seeking to impeach him on that particular answer about  
7 whether or not he drank at Migdalia's by the use of the video  
8 tape showing him at that location drinking.

9 MR. KOLANO: Correct.

10 THE COURT: That's where we would be heading.

11 But from what I understand about the video tape,  
12 that's not all that's on the video tape. And I haven't seen  
13 it, I don't know how much of it would be proposed to be shown  
14 to the jury, in any event. But I would have to see the tape  
15 before allowing that to be put in by way of rebuttal.

16 MR. KOLANO: Obviously, at this point I am not  
17 attempting to put it in. I am just laying foundation.

18 THE COURT: Okay. Okay.

19 (SIDE BAR TERMINATED).

20 Q. Mr. Mathis, would it be fair to say on your video tape  
21 a party atmosphere?

22 A. No.

23 Q. No. Having a good time?

24 A. Yes. We was joking and stuff.

25 Q. Relaxing and enjoying the company of your friends?

MARVIN MATHIS - CROSS BY KOLANO

12

1 A. You can say that.

2 Q. Antwan Harvey was on video tape?

3 A. I think so. I am not sure.

4 Q. April Diggs was on video tape?

5 MR. FLORCZAK: Judge, I object.

6 The witness has testified he didn't see the tape, so  
7 he is maybe testifying as to what he was told. I would ask if  
8 there is some foundation as --

9 THE COURT: But he indicates, he has already indicated  
10 that he was present when the tape was made, he knew the tape  
11 was made. So --

12 Q. April Diggs was there when the tape was rolling?

13 A. I think so.

14 Q. And Renee Diggs was there when the tape was rolling?

15 A. I am not sure.

16 Q. If you saw that video tape would that refresh your  
17 recollection?

18 A. Would it refresh my recollection?

19 Q. Yes. If you saw the tape would that --

20 If you were to look at it now do you think that would help  
21 your memory as to whether or not April and Renee and Antwan  
22 were there?

23 A. Yes, maybe.

24 Q. Now, you indicated yesterday that the first statement  
25 was largely a lie, but the second statement was the truth?

MARVIN MATHIS - CROSS BY KOLANO

13

1 A. Yes.

2 Q. I am going to show you, Mr. Mathis, what has been  
3 marked S-2. This is a copy of your first statement, right?

4 Well, let's do it this way.

5 Whose initials are right at the bottom?

6 A. That's my initials.

7 Q. You put them there?

8 A. Yes.

9 Q. And on the next page, right at the end of the page  
10 again there is initials MM. Are those yours?

11 A. Yes.

12 Q. And you put them there?

13 A. Yes.

14 Q. And on the third page there is the initials MM. Did  
15 you put them there?

16 A. Yes.

17 Q. And on the next page, MM, did you put them there?

18 A. Yes.

19 Q. And on the next page on the bottom, MM, did you put  
20 them there?

21 A. Yes.

22 Q. And on the next page, on the bottom, MM, did you put  
23 them there?

24 A. Yes.

25 Q. And on the next page, MM, did you put them there?

MARVIN MATHIS - CROSS BY KOLANO

14

1 A. Yes.

2 Q. And on the last page, MM, on the bottom, did you put  
3 those initials there?

4 A. Yes.

5 Q. And in the last page is your signature, right?

6 A. Yes.

7 Q. And in fact that's your mother's signature also?

8 A. Correct.

9 Q. And when you originally went to the police and they  
10 started asking you questions, you told us yesterday you  
11 initially lied to them, right?

12 A. Excuse me?

13 Q. You lied to the police initially?

14 A. In that first statement?

15 Q. The oral statement when you were first talking to  
16 them, you started out by lying to the police, did you not?

17 A. Yes.

18 Q. Because the police asked you about your involvement,  
19 if anything, with the killing, right?

20 A. They didn't ask me that.

21 Q. What did they ask you? They brought you to police  
22 headquarters. What did they ask you?

23 A. I don't remember exact words they asked me, but they asked  
24 me, you know, was I involved.

25 Q. They asked you if you were involved in the killing of --

MARVIN MATHIS - CROSS BY KOLANO

15

1 Did they ask you if you were involved in the robbery?

2 A. Yes.

3 Q. And you told them, no, you were not involved with the  
4 robbery, right?

5 A. Yes.

6 Q. In fact you told them you weren't even there, right?

7 A. Yes.

8 Q. In fact you told them you didn't know what the police  
9 were talking about, right?

10 A. Yes.

11 Q. And this went on for a while, with them asking you  
12 these questions, and your denying any knowledge or involvement,  
13 right?

14 A. Yes.

15 Q. And, now, how long did it go on for?

16 A. I don't remember.

17 Q. Can you estimate?

18 A. Can't say.

19 Q. And the police basically told you that your story was  
20 inconsistent and wasn't making sense?

21 A. Yes.

22 Q. And your mother was there, right?

23 A. Yes.

24 Q. And finally you understood that your story was  
25 inconsistent, wasn't making sense, and you told the police I

MARVIN MATHIS - CROSS BY KOLANO

16

1     lied, I will now tell you the truth?

2     A.   Yes.

3           Q.    About how many times did the police question you when  
4     you lied to them in this first oral statement?

5     A.   I don't remember.

6           Q.    Well, you remember yesterday Mr. Florczak asked you  
7     some questions about how many times you denied your involvement  
8     in the robbery?

9     A.   I denied my involvement in the robbery?

10          Q.    Would it be fair to say that there were at least ten  
11     occasions when you told the police that you didn't know what  
12     they were talking about?

13     A.   (Pause) Maybe something like that.

14          Q.    And then in fact at one point even your mother was  
15     saying, Marvin, this doesn't make sense, isn't that correct?

16     A.   Yes.

17          Q.    And then you told the police that you wanted your  
18     mother to leave?

19     A.   That's when detective stepped out, you know, that's when my -

20                When detective left out of the room, they left me and my  
21     mother in the room by myself so my mother could talk to me.

22     That's when my mother told me If you know something please tell  
23     them. You know, I could tell that she was upset, you know, and  
24     she wanted me, so that's why I just told them what happened.

25          Q.    But you wanted your mother to leave the room, didn't

MARVIN MATHIS - CROSS BY KOLANO

17

1 you?

2 A. At first, yes.

3 Q. In fact you told the detectives, please, have my  
4 mother step outside?

5 A. Yes.

6 Q. And the detectives accomodated or they agreed with you  
7 and they had your mother step out?

8 A. Yes.

9 Q. And the reason you wanted your mother to step out is  
10 because you were about to tell what really happened and you  
11 didn't want to hurt her, is that correct?

12 A. I didn't want to upset her.

13 Q. Because up until that time you were saying that you  
14 had no involvement, you were lying, and you figured that would  
15 be okay, right, that wouldn't upset your mother, because you  
16 were saying you weren't involved, right?

17 A. Yes.

18 Q. But then when you knew you were going to talk about  
19 your involvement you did not want your mother to hear it,  
20 right?

21 A. Yes.

22 Q. Then you give your first written statement, that we  
23 have identified, right?

24 A. Yes.

25 Q. Now, this is a collection of a whole bunch of

MARVIN MATHIS - CROSS BY KOLANO

18

1 individual lies, isn't it?

2 A. Yes.

3 Q. Okay. Please take that in your hand, because I do  
4 want to go through some of this stuff.

5 Page three, seventh question down, and I will read it:

6 "When you met him was he with anyone else?

7 "Answer: Yes. But I don't know his name. He is  
8 from Carteret."

9 That was a complete and total lie, right?

10 A. Yes. That's when detectove asked me Who was with you?

11 Q. And did the police put those words in your mouth, and  
12 they told you that you should say it was some fictitious person  
13 from Carteret?

14 A. No.

15 Q. That came out of your mind, right?

16 A. Yes.

17 Q. And that came out of your mouth when you told them  
18 that there was somebody from Carteret, right?

19 A. Yes.

20 Q. Because you could understand it would be of no benefit  
21 to the police for them to put their own false defendants in  
22 here, since they knew they didn't exist, right?

23 A. Yes.

24 Q. So these were not words that were put in your mouth,  
25 they were words by you?

MARVIN MATHIS - CROSS BY KOLANO

19

1 A. He was like asking me, you know, Did this person have a  
2 nickname?

3 MR. FLORCZAK: Judge --.

4 MR. KOLANO: I just wanted to focus on this question  
5 and answer. We will go through it all, I promise you.

6 Q. This particular lie is just an out and out lie that  
7 you told the police, right?

8 A. Yes.

9 Q. And you were able to formulate this lie even though  
10 you were scared and confused, right?

11 A. Yes.

12 Q. And then two questions down, says, What were you  
13 looking to do?

14 "Answer: They were looking to rob somebody."

15 Right? That's also a lie, because there was nobody from  
16 Carteret, right?

17 A. It wasn't no, it wasn't no. I told them -- you know, I  
18 didn't mention no Antwan name.

19 Q. You didn't mention a name?

20 A. Not to that question you asked me.

21 Q. Well, let's, let's go to the top of the page, then.  
22 To the best of your recollection, where does Antwan live?

23 "Answer: Third court, first floor, Pioneer Homes."

24 You had already given Antwan's name, had you not?

25 A. Yes.

MARVIN MATHIS - CROSS BY KOLANO

20

1 Q. Okay. And in fact even in the oral interview you said  
2 Antwan was the person responsible, right?

3 A. Yes.

4 Q. So when you said they were looking to rob somebody you  
5 were talking about Antwan and the make believe person from  
6 Carteret, right?

7 A. Was I talking about Antwan and make believe people from  
8 Carteret?

9 Q. Yes, when you say they were looking to rob somebody,  
10 are you talking about you and Antwan?

11 A. No.

12 Q. Who are you talking about?

13 A. Antwan and people that I made up.

14 Q. So that was also a lie, right?

15 A. I already answered that, so --

16 Q. Going down couple of questions, Did anything unusual  
17 happen under the bridge?

18 "Answer: They wanted me to hold the gun."

19 Is that true?

20 A. No.

21 Q. "Question: Who wanted you to hold the gun?

22 "Antwan."

23 Is that true?

24 A. When we got down on the bridge -- When we was running,  
25 going towards Seventh Street, that's when we got on the bridge.

MARVIN MATHIS - CROSS BY KOLANO

21

1 I am just saying no, that didn't happen.

2 Q. Let me ask you, Why did you tell that lie at that  
3 point?

4 A. I was confused and scared, like I told you about they  
5 wanted me to hold the gun.

6 Q. Would you please explain to us how you could come up  
7 with these lies?

8 A. He was pressuring me.

9 Q. Pressuring you by asking you questions?

10 A. Yes. They was like asking me five, five questions at one.

11 Q. Well, under pressure wouldn't it have been easier just  
12 go right directly to the truth rather than a lie?

13 A. I can't, I can't say, I can't answer that.

14 Q. Isn't it easier to tell the truth than to tell a lie?

15 A. Yes, it is.

16 Q. So under pressure, wouldn't it have been easier to  
17 tell the truth than to tell a lie?

18 A. Yes.

19 Q. But you chose to tell the lie instead?

20 A. Like I told you before, I was scared.

21 Q. You said you were scared. Nobody threatened you.  
22 Antwan didn't threaten you, right? You told us that yesterday  
23 on direct.

24 A. Yes.

25 Q. Yes, he did not threaten you?

MARVIN MATHIS - CROSS BY KOLANO

22

1 A. No, he didn't threaten.

2 Q. None of the girls threatened you?

3 A. No.

4 Q. And we know police didn't threaten you, right?

5 A. No.

6 Q. So absolutely nobody threatened you as it related to  
7 this case?

8 A. No.

9 Q. And at this -- on the next page, it says:  
10 What happened at Alexian Brothers?

11 First we was walking fast, then we slowed down. Then he  
12 said, he told me and his boy to come on. Then he seen the man  
13 who owned the liquor store, and then he told him to empty his  
14 pockets. Is that true?

15 A. That whole question?

16 Q. Up until that point is that true?

17 A. No.

18 Q. Which part of that is a lie?

19 A. About, you know, we was walking, we was fast and slow down,  
20 we slowed down, then he said, told me and his boy to come on.

21 Q. Is that true?

22 A. No.

23 Q. The man said No, then Antwan tried to go into his  
24 pockets. Is that true?

25 A. No.

MARVIN MATHIS - CROSS BY KOLANO

23

1 Q. Did Antwan ever try to go into the man's pockets?

2 A. Yes.

3 Q. So that would be true, then?

4 A. Yes.

5 Q. Then they started fighting. The man threw a punch at  
6 Antwan, and then Antwan threw a punch back. Then Antwan pushed  
7 him, then he shot him. Is that true?

8 A. Half of it.

9 Q. Which half is true?

10 A. When the man threw a punch at Antwan, that's when Antwan  
11 threw a punch back.

12 Q. Okay. And then the fact, the part that Antwan pushed  
13 him is the part that's not true?

14 A. I can't really say.

15 Q. Well, that's consistent with what you testified to  
16 yesterday, isn't it, about punching back and forth?

17 A. Yes.

18 Q. And what you told us yesterday was the truth?

19 A. Yes.

20 Q. So early on you are telling the police what Antwan's  
21 involvement is, at least your version of what Antwan's  
22 involvement is, right?

23 A. Yes.

24 Q. "Did you look at other people along the way to see if  
25 Antwan wanted to rob them?"

MARVIN MATHIS - CROSS BY KOLANO

24

1 "Answer: He wanted to rob another person, but he  
2 got in his car, he was too fast."

3 Is that true?

4 A. No.

5 Q. There wasn't another person that Antwan wanted to rob?

6 A. There was nobody, you know; saying he was too fast, no.

7 Q. Why did you tell the police that if it wasn't true,  
8 then?

9 A. I told you before, I was scared.

10 Q. I would like you, if you could, to then explain why  
11 you basically tell the same version here as you told on the  
12 witness stand about the punches being exchanged and Antwan  
13 being the shooter? You weren't scared to tell that portion of  
14 the truth, but yet you were scared to tell other portions of  
15 the truth?

16 A. Other portions of the truth? I don't understand.

17 Q. This statement has some truth and some lies?

18 A. Yes.

19 Q. Are you only scared for part of it?

20 A. I was only scared for part of it?

21 Q. Yes.

22 A. Part of what?

23 Q. Part of the statement. Only the parts that are lies  
24 you are scared and confused, but parts that were true you  
25 weren't scared and confused?

MARVIN MATHIS - CROSS BY KOLANO

25

1 A. Yes.

2 Q. How far away were you when the shot was fired?

3 A. Like ten, ten or five feet. No. Ten, ten or fifteen feet,  
4 something like that.

5 Q. Give me an idea.

6 As far as you and I are from one another or closer?

7 A. A little bit more closer.

8 Q. Stepping up to the front of counsel table?

9 A. Step back a little bit more. Right there.

10 Q. Okay. I am standing basically at the middle of  
11 counsel table, right in between seat number one and two on the  
12 jury.

13 And this is how far you are when the shot goes off?

14 A. Yes.

15 Q. And -- ?

16 A. I am not, I am not for sure. It seemed like it was that,  
17 you know, it was that close, or something like that, that far.

18 MR. KOLANO: I don't know if we have a measurement.

19 THE COURT: From the front of the witness stand to the  
20 rail behind you, Mr. Kolano, is fifteen feet. I would estimate  
21 you are in the middle of that distance.

22 Q. So seven and a half feet?

23 A. Something like that.

24 Q. How many shots were fired?

25 A. Two, but first one missed.

MARVIN MATHIS - CROSS BY KOLANO

26

1 Q. Okay. Is this generally where you were when the first  
2 shot was fired?

3 A. Something like that.

4 Q. Where were you when the second shot was fired?

5 A. That's when I ran over there.

6 Q. Because in between first shot and second shot you ran  
7 over?

8 A. Yes.

9 Q. Please -- ?

10 A. Right. Ran over trying to stop.

11 Q. Tell us how quickly first and second shot happened?

12 A. First shot went off, he just sort of missed him. That's  
13 when the man was still struggling with him. That's when I ran  
14 over there tried to stop it, but it went off again.

15 Q. Okay. Give me an idea. I am going to do the first  
16 shot, you do second shot. Okay. Bang! (Pause)

17 A. I ran over there.

18 Q. And then?

19 A. As soon as I -- that's I grabbed Antwan's jacket, the shot  
20 went off.

21 Q. So, however long it was between the first shot and  
22 second shot, it was long enough for you to run and grab  
23 Antwan's arm?

24 A. What you doing? That's when the man fell.

25 Q. Yesterday did you indicate that you were on the

MARVIN MATHIS - CROSS BY KOLANO

27

1 picture, actually off the picture on the other side of the  
2 Chinese restaurant?

3 A. Yes.

4 Q. And this is where the man is, you are all the way over  
5 here, off of this picture.

6 And I am looking at S-17. Can you see that?

7 A. Yes, I can see it.

8 Q. After the --

9 Did you see where the first --

10 Did the first bullet ricochet, if you know?

11 A. I don't remember.

12 Q. Where was Antwan standing? What was the position of  
13 Antwan and the man when the first shot was fired?

14 A. I don't remember. Happened so fast.

15 Q. Well, how close were Antwan and the victim?

16 Again, I am standing up here. As close as you and I are?

17 A. That's pretty close.

18 Q. And that's about arms length from you?

19 A. No. I can't say, it happened so fast.

20 Q. Which hand did Antwan have the gun in?

21 A. He had it in his right.

22 Q. In his right hand?

23 A. Yes.

24 Q. Did you see if he was pointing the gun up, straight,  
25 or down?

MARVIN MATHIS - CROSS BY KOLANO

28

1 A. I don't know.

2 Q. And it was certainly not further than you and I are,  
3 because you said they were still struggling?

4 A. How far me and you was right now.

5 Q. Right now?

6 A. I, I don't know.

7 Q. Was the victim still standing up when the first shot  
8 was fired?

9 A. Yes.

10 Q. Was Antwan standing up?

11 A. Yes.

12 Q. Were they facing each other?

13 A. They was strugling.

14 Q. Struggling, when you say struggling they were touching  
15 each other?

16 A. Yes.

17 Q. So they had to be at least closer than arm's length  
18 than we are from here, right?

19 A. Yes.

20 Q. And you are telling us that Antwan with his right hand  
21 pulled out the gun and shot at the man from this distance and  
22 missed?

23 A. No. They were struggling. You are confusing me.

24 Q. I don't want you to be confused. I want you to tell  
25 us exactly what you saw.

MARVIN MATHIS - CROSS BY KOLANO

29

1 They are struggling?

2 A. Yes.

3 Q. And Antwan misses from as close as you and I are?

4 A. That's when the man had the gun, they was struggling, first  
5 shot went off, the bullet missed him.

6 Q. Man had his hand on the gun?

7 A. He had his -- I don't know if he had the hand on the gun.  
8 Antwan had something -- I know first shot went off, the shot  
9 missed him.

10 Q. And how long did this struggle take place before the  
11 first shot went off?

12 A. I can't say.

13 Q. Do you remember ever saying at another time it was  
14 about two minutes?

15 A. Never said two minutes.

16 Q. Never did?

17 A. Not that I remember.

18 Q. Well, can you tell us now how long it was?

19 A. It was, it was not that long.

20 Q. Now, you run over and you grab, which arm of Antwan's?

21 A. His right arm.

22 Q. The one with the gun?

23 A. Yes.

24 Q. You pull it back?

25 A. I just grabbed him. As soon as I grab him it just went

MARVIN MATHIS - CROSS BY KOLANO

30

1 off.

2 Q. And then what happened?

3 A. Then the man fell. Then Antwan like his eyes got big, he  
4 seen the man fell. And I was like in shock. Then no soon  
5 Antwan, you know, looked, he just snatched me and tell me Come  
6 on. That's when I ran with him. We run up Seventh. Then  
7 while we was running he was telling me to hold the gun. You  
8 know, I was so scared, you know, I didn't touch the gun.

9 Q. When you first got together with Antwan that night  
10 where was it?

11 A. Excuse me?

12 Q. Where did you first get together with Antwan that  
13 night?

14 A. That evening?

15 Q. Yes.

16 A. Like around eight, quarter to eight, eight o'clock, just  
17 like Third and Bond.

18 Q. Close to Migdalia's house?

19 A. No. We was on the corner.

20 Q. Migdalia is -- ?

21 A. It's on the same side, corner I was standing on.

22 Q. You got together with April and Renee Diggs?

23 A. Yes, across the street from Chinese store.

24 Q. Where do you walked from there?

25 A. We walked straight up Third, then we turned. It was then

MARVIN MATHIS - CROSS BY KOLANO

31

1 Renee see this liquor store, she go get some beer for Antwan.  
2 But they didn't want to serve her because she had no ID. So  
3 that's when, that's when I noticed this man waiting for the  
4 bus. I don't know if he was waiting for a bus or standing  
5 there. And that's when I noticed that he told the girls to go  
6 see if he had any gold on.

7 I told him I am not going to do it.

8 Q. How long were you with Antwan before this happened?

9 A. How long?

10 Q. Yes.

11 A. I can't really say.

12 Q. How far had you walked?

13 A. How far?

14 Q. Yes, from where I started to where the man with the  
15 gold was?

16 A. From Third -- that's about -- I can't say.

17 Q. At this point do you know Antwan has a gun?

18 A. At that point, no.

19 Q. Had you ever seen Antwan with the gun before?

20 A. Before that? Before the --

21 Q. Before this night.

22 A. No.

23 Q. So the very first time in your life you saw your  
24 friend Antwan with the gun was this night?

25 A. Yes.

MARVIN MATHIS - CROSS BY KOLANO

32

1 Q. You thought you were going to walk around the city  
2 that night?

3 A. Yes. He told her, go to liquor store to get his beer.  
4 It was a school night.

5 Q. Well, why did you feel compelled to go out if it was  
6 school night just to walk around and do anything, anyway?

7 A. He told me, Elizabeth Avenue, he says soon that Renee get  
8 his beer then that's when we walk home.

9 Q. When you first saw him on Third and Bond that was real  
10 close to your house, wasn't it?

11 A. No.

12 Q. Didn't you pass your house?

13 A. Did I pass my house?

14 Q. When you were walking that night didn't you pass your  
15 house?

16 A. No.

17 Q. You never passed your house?

18 A. No.

19 Q. You remember telling the police that you passed your  
20 house?

21 A. I think so.

22 Q. You think so?

23 A. I think so.

24 Q. Now, according to you, Antwan sees this man and he  
25 sends the girls to see if he has any gold on, right?

MARVIN MATHIS - CROSS BY KOLANO

33

1 A. Yes.

2 Q. At that point you know that it's going to be a  
3 robbery?

4 A. Yes.

5 Q. Because Antwan told you he was going to rob him?

6 A. No.

7 Q. How did you know it was going to be a robbery?

8 A. When he send them to see if he have any gold on.

9 Q. Girls went over there?

10 A. And report back to him.

11 Q. What did they report?

12 A. That he has something around his neck, said looked like  
13 gold.

14 Q. And then Antwan said he was going to go over and rob  
15 him?

16 A. He was about to go over there.

17 Q. And you stopped him?

18 A. Yes.

19 Q. How did you stop him?

20 A. I was like, Don't do it.

21 Q. Why did you tell him not to do it?

22 A. I just told him.

23 Q. And at this point he hadn't produced the gun yet?

24 A. No.

25 Q. So you thought he was going to go up there bully the

MARVIN MATHIS - CROSS BY KOLANO

34

1     guy, take his chains?

2     A.   Yes.

3           Q.   Did you tell him not to do it because the guy was  
4     black.

5     A.   No.

6           Q.   And at this point Antwan went along with you and  
7     didn't do it, according to you?

8     A.   Yes.   Just looked at, gave me this funny look, you know, I  
9     can't say, gave me funny look, and just we continued walking.

10          Q.   Were you afraid of him at that point?

11     A.   I was a little intimidated by him.

12          Q.   You were intimidated by Antwan, and yet you told him  
13     to stop, don't do that robbery, and he obeyed your command?

14     A.   Yes.

15          Q.   And you don't leave at that point?

16     A.   No.

17          Q.   You know that Antwan is out to do robberies at that  
18     point, right?

19     A.   No.

20          Q.   You knew he was going to do at least one robbery,  
21     according to you?

22     A.   Yes.

23          Q.   And you feel compelled, you feel that you have to go  
24     along with him at this point, why?

25     A.   Do I have to go along with him?

MARVIN MATHIS - CROSS BY KOLANO

35

1 Q. Why didn't you leave him? Why didn't you say, hey, I  
2 don't want any part of this robbery stuff?

3 A. I didn't know it was going to be a robbery, plus I wasn't  
4 thinking.

5 Q. You knew he was going to try to rob the guy with the  
6 chains?

7 A. I thought he was going to bully him or something.

8 Q. Just bully him?

9 A. I didn't know.

10 Q. Why did you tell us before that he was going to rob  
11 him?

12 A. You confuse me.

13 Q. I don't want you to be confused. If I ask you a  
14 question you don't understand please let me know. I want you  
15 to understand. Okay?

16 A. All right.

17 Q. Very simply. Did you know when Antwan sent the girls  
18 over to check for gold that his intention was to rob the man?

19 A. (Pause). He was going to do something. I don't know.

20 Q. Do you remember testifying yesterday and today that  
21 the purpose was a robbery?

22 A. Purpose was to rob? I think so.

23 Q. And that's why it was important to know whether or not  
24 the man had gold on him, because that's what was going to be  
25 robbed from the man?

MARVIN MATHIS - CROSS BY KOLANO

36

1 A. You can say that.

2 Q. At this point Antwan doesn't threaten you, right?

3 A. No.

4 Q. Is he acting crazy at this point?

5 A. Not at that time. No. That's when we went down the Ave.

6 Q. If you can -- I will ask you simple questions, you can  
7 give me simple answers. Okay? So that I don't confuse you.  
8 Okay?

9 He is not acting crazy at that point in time?

10 A. Not yet.

11 Q. And this is the first attempt at robbery that night?

12 A. That night?

13 Q. Yes.

14 A. Soon, that's when April noticed the deli store.

15 Q. So first man was the man with gold chains, right?

16 A. Yes.

17 Q. First victim?

18 A. Yes.

19 Q. Now, are you drinking this night?

20 A. No.

21 Q. Are you under the influence of any alcohol or drugs?

22 A. No.

23 Q. So your mind isn't clouded by that, right?

24 A. Isn't clouded? No.

25 Q. And is Antwan drinking?

MARVIN MATHIS - CROSS BY KOLANO

37

1 A. I think so.

2 Q. You think so. Did you see him drink?

3 A. I think early he had like a few, couple of beers, I am not  
4 for sure.

5 Q. When you say earlier, where and when?

6 A. This was, it was on Third, like in the afternoon.

7 Q. You saw him in the afternoon?

8 A. Yes, that's when I seen him on the corner of Third and  
9 Bond. I was going home.

10 Q. Migdalia's house?

11 A. I don't know.

12 Q. So around, around four o'clock in the afternoon you  
13 see Antwan drinking?

14 A. Yes.

15 Q. And -- ?

16 A. I don't know if he was, you know, I don't know what was it,  
17 but I seen him, you know, it was in a can, you know.

18 Q. How long were you with him?

19 A. How long was I with him that evening?

20 Q. One sip, ten sips?

21 A. I wasn't paying attention.

22 Q. Did you got together with him later and you started  
23 walking on the Avenue that you told us about?

24 A. Yes.

25 Q. Did he have any alcohol with him?

MARVIN MATHIS - CROSS BY KOLANO

38

1 A. No.

2 Q. Did he have any drugs with him that you were aware of?

3 A. No, not to my knowledge.

4 Q. So he wasn't smoking any marijuana?

5 A. No.

6 Q. He wasn't taking any pills?

7 A. No.

8 Q. And he wasn't drinking anything?

9 A. No.

10 Q. And that is true for the entire night, up until the  
11 point you separate, right?

12 A. When we separated. Yes.

13 Q. Are April and Renee doing any drugs in front of you?

14 A. No.

15 Q. Are they drinking in front of you?

16 A. No.

17 Q. So basically all of you are walking around and  
18 everybody is sober, is that true?

19 A. I can't speak for them, but I speak for myself, you know, I  
20 was -- I never did nothing like that.

21 Q. But you didn't see them do anything?

22 A. No.

23 Q. You didn't see them drink or do drugs, right?

24 A. No.

25 Q. Now, after the deli man -- I am sorry.

MARVIN MATHIS - CROSS BY KOLANO

39

1 After the man with the gold chains, where did you go from  
2 there?

3 A. Then we walked, April noticed this deli store.

4 Q. How far did you walk before April noticed the deli  
5 store?

6 A. Three or four steps.

7 Q. So the one robbery doesn't take place because you say  
8 no, right?

9 A. Yes.

10 Q. And then you walk four steps -- one, two, three, four --  
11 like that?

12 A. Yes.

13 Q. And then April says, Oh, look, there is a deli?

14 A. She didn't say it like that.

15 Q. How did she say it?

16 A. She is like look at this old man in the deli store.

17 Q. And then she says what to Antwan?

18 A. She told Antwan he should get this deli store, like Here.

19 Q. You knew that to mean rob it?

20 A. Yes.

21 Q. And now, this is originally April's idea?

22 A. Yes.

23 Q. To get this?

24 A. Yes.

25 Q. And you don't leave at this point, right?

MARVIN MATHIS - CROSS BY KOLANO

40

1 A. No.

2 Q. Okay. After these four steps is Antwan acting crazy  
3 yet?

4 A. Not yet.

5 Q. And he doesn't drink anything in those four steps,  
6 right?

7 A. Did he drink anything?

8 Q. In those four steps?

9 A. No.

10 Q. And does anybody approach the deli store?

11 A. That's when he was about to approach it.

12 Q. What was Antwan doing as he was about to approach the  
13 deli store?

14 A. He was about -- I don't remember -- he was saying about  
15 going, but I told him, no, don't do it, I am not going, I am  
16 not down with it.

17 Q. Why did you tell him you weren't down with it?

18 A. Because I didn't want him to rob the deli store.

19 Q. Did he ask you to be down with it?

20 A. No.

21 Q. Did he ask you to be a lookout on the deli store job?

22 A. No.

23 Q. Did he ask you to be a lookout on the guy with gold  
24 chains?

25 A. No.

MARVIN MATHIS - CROSS BY KOLANO

41

1 Q. Did he ask the girls to be a lookout on the guy with  
2 gold chains?

3 A. No.

4 Q. Did he ask you -- Did he ask the girls to be lookout  
5 on the deli?

6 A. I don't remember.

7 Q. Okay. So at this point he is going to rob the deli,  
8 he doesn't ask anybody that you can remember to be a lookout or  
9 to participate, and you say, no, don't do it?

10 A. Yes.

11 Q. And he doesn't do it?

12 A. Yes. He didn't do it.

13 Q. So this is the second time you gave him a command not  
14 to do something, and second timing he obeys you, right?

15 A. Yes.

16 Q. And does he have the gun at this point?

17 A. I didn't see no gun at that point, no.

18 Q. Okay. Is his jacket turned inside out at that point?

19 A. Yes.

20 Q. He knew his jacket was turned inside out because it  
21 would be means of identification, right?

22 A. Yes.

23 Q. So that he would be described as the person with gold  
24 jacket rather than blue jacket, right?

25 A. Blue and black.

MARVIN MATHIS - CROSS BY KOLANO

42

1 Q. And at this point Renee Diggs also has her jacket  
2 turned inside out, right?

3 A. I think so.

4 Q. And again you knew that Renee had turned it inside out  
5 because robberies were going to take place and that would be a  
6 means of identification?

7 A. I guess.

8 Q. But your jacket is a black jacket, right?

9 A. Yes.

10 Q. And it's black inside and out, right?

11 A. Yes.

12 Q. So you don't turn your jacket out because that would  
13 be silly?

14 A. I never turned it inside out.

15 Q. So now you know there is this second attempt at a  
16 robbery, do you leave Antwan then?

17 A. No.

18 Q. Were you afraid of him then?

19 A. I don't remember.

20 Q. You don't remember if you were afraid?

21 A. At that time, I don't remember.

22 Q. Were you confused?

23 A. Yes.

24 Q. After the deli where do you go?

25 A. We started walking on Elizabeth Avenue. We was walking and

MARVIN MATHIS - CROSS BY KOLANO

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1 walking. That's when Antwan noticed he seen these Puerto Rican  
2 kids walking up the street. Then he started walking fast.  
3 Then he looked back. And time he seemed walking fast, that's  
4 when he just took off, took off running. That's when April she  
5 went back, she was running back, see what's going on. It  
6 happened so fast, I tried to stop it. But that's when me and  
7 this other girl start running, and they outran us.

8 Q. How far had you gone from the deli to where you saw  
9 the Puerto Rican kids?

10 A. I saw, like a block and a half.

11 Q. And you don't leave even though there is two  
12 robberies, you continue with him for a block and a half?

13 A. At that time two Puerto Rican kids outran.

14 Q. Just listen to my question.

15 MR. FLORCZAK: May he finish?

16 MR. KOLANO: Not if it's not responsive.

17 MR. FLORCZAK: That's not for him to determine.

18 MR. KOLANO: Certainly it is.

19 THE COURT: Objection should be interposed, and I can  
20 address nonresponsiveness.

21 Rephrase the question.

22 Q. You walk a block and a half from the deli attempted  
23 robbery to where Antwan sees the Puerto Rican boys, right?

24 A. Yes.

25 Q. Is there any conversation about robberies during that

MARVIN MATHIS - CROSS BY KOLANO

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1 block and a half?

2 A. No.

3 Q. And you don't leave Antwan during that block and a  
4 half?

5 A. No.

6 Q. You don't even try to leave him during that block and  
7 a half?

8 A. I wasn't thinking.

9 Q. He doesn't threaten you during this block and a half?

10 A. No.

11 Q. You are not afraid of him during this block and a  
12 half?

13 A. I don't remember.

14 Q. Was he acting crazy yet?

15 A. Not yet.

16 Q. So this entire time he sees these Puerto Rican boys --

17 A. Yes.

18 Q. -- and he is going to rob them?

19 A. I don't know what he was going to do. I thought he was  
20 going to beat them up or something.

21 Q. Did you know why he was going to beat them up?

22 A. No.

23 Q. What made you think he was going to beat them up?

24 A. He do that type of stuff.

25 Q. He just walks around beating up people?

MARVIN MATHIS - CROSS BY KOLANO

45

1 A. You can say that.

2 Q. How do you know?

3 A. I seen him do it before.

4 Q. So before you even started this night and walking  
5 around with Antwan you knew he would like to walk around and  
6 beat up people, is that what you are telling us?

7 A. No. That's not what I am telling you.

8 Q. Well, then you tell us. Why did you get together with  
9 Antwan if you knew he liked to do this kind of stuff that was  
10 wrong?

11 A. I didn't get together with him.

12 Q. Why did you walk with him?

13 A. I wasn't thinking.

14 Q. Did you run after him when he was running after the  
15 Puerto Rican boys?

16 A. Did I run after him?

17 Q. Yes.

18 A. Yes, I ran, me and the other girl ran, was jogging, you  
19 know, see what was going on, because we didn't know why he took  
20 off.

21 Q. Did the Puerto Rican boys outrun him?

22 A. Yes.

23 Q. Did he have a gun at this point?

24 A. That time I didn't see no gun.

25 Q. Is he acting crazy yet?

MARVIN MATHIS - CROSS BY KOLANO

46

1 A. That's when we cross --

2 Q. Simple question. Was he acting crazy when he went  
3 after the Puerto Rican boys?

4 A. Not yet.

5 Q. You would agree that at that point in time you had an  
6 opportunity to go in another direction or to go home and leave  
7 him since this was the third time he was doing something wrong?

8 A. I wasn't thinking.

9 Q. After the Puerto Rican boys where do you walk?

10 A. Across the street.

11 Q. Across the street. What street are you on?

12 A. Elizabeth Avenue and 6th, Sixth Street.

13 Q. And -- ?

14 A. That's when he start acting crazy.

15 Q. So now he starts acting crazy. How far had you gone  
16 from where the Puerto Rican boys were to the point where he  
17 starts to act crazy?

18 A. Across the street.

19 Q. So he chases the Puerto Rican boys, he goes across the  
20 street; now he starts to act crazy?

21 A. He just pulled the gun out saying -- I don't know exact  
22 words he is saying. I forgot the words he is saying, but he  
23 start acting crazy and pulls the gun out.

24 Q. You are well aware that he has a gun?

25 A. Yes.

MARVIN MATHIS - CROSS BY KOLANO

47

1 Q. On Elizabeth?

2 A. Elizabeth and Sixth.

3 Q. You don't remember what he is saying, but he is acting  
4 crazy?

5 A. I don't know exact words what he is saying. That's when I  
6 wanted to leave, but I was scared, I was scared he was going to  
7 shoot me or something, so I stayed.

8 Q. But he didn't threaten to shoot you?

9 A. No. But he start acting crazy. That's when, that's when --

10 Q. Let me ask you. Do you know what changed, since he  
11 wasn't drinking or doing any drugs, what changed when he went  
12 across the street from not crazy to crazy, what happened?

13 A. He just showed off with the gun or something. I can't  
14 remember, I can't say.

15 And soon as that's when she wanted to leave, Renee, but he  
16 just grabbed her or something.

17 Q. She tried to leave and he grabbed her?

18 A. Yes.

19 Q. But you didn't try to leave?

20 A. I was scared, so I stayed. I thought he was going to shoot  
21 me.

22 Q. You were friends with him, right?

23 A. I was friends, I wasn't close with him.

24 Q. Did you ever see him act like this before?

25 A. I seen him few times act like that.

MARVIN MATHIS - CROSS BY KOLANO

48

1 Q. Did he ever shoot you those times?

2 A. Few times I seen him act like that he didn't have a gun.

3 Q. Did he ever hurt you those times when he was acting  
4 crazy?

5 A. He used to snap on me.

6 Q. That means verbally?

7 A. He say words to me, you know.

8 Q. He never hurt you or hit you when he was acting like  
9 this in the past, right?

10 A. I can't remember.

11 Q. How far do you walk with him after you know he has the  
12 gun?

13 A. He was -- little walk.

14 Q. Please tell. You are on Elizabeth Avenue. We know  
15 that you ultimately end up on East Jersey Street. Tell us what  
16 path?

17 A. We was walking, and we, I don't remember the street, I  
18 don't remember the, I forgot the name of the street. We turned  
19 and we was walking again. That's when we got on Seventh,  
20 Seventh Street. Then walked down, that's when we got to corner  
21 of Seventh and East Jersey.

22 Q. And that took at least what, half hour, did you make  
23 that walk?

24 A. No.

25 Q. How long?

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1 A. I can't estimate.

2 Q. Was it more than five minutes?

3 A. No.

4 Q. Five minutes you got from Elizabeth Avenue to East  
5 Jersey Street?

6 A. No. I said no.

7 Q. Okay. To where, then, East Jersey to where?

8 A. I can't remember. I can't estimate.

9 Q. During this time what is Antwan doing?

10 A. At that time that's when he stopped, he said he was going  
11 to rob this man. Then he told the two girls, you know, walk  
12 other there and just be a lookout for him. Then he told me to  
13 be a lookout for him too. Then he told me do it, I said, no, I  
14 shook my head, he told me just do this for me. Then when the  
15 girls went across the street, he asked them something. I went  
16 across the street. That's when I stood by this brown building,  
17 between the door. That's when, that's when he went over there,  
18 and he told the man run his pockets, you know, something like  
19 that.

20 Q. Let me stop there. During the time before you get up  
21 to where this man is, does Antwan do anything inappropriate?

22 A. Something inappropriate?

23 Q. Something not right. Does he try to hurt anybody?

24 A. What, before?

25 Q. Yes.

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1 A. I don't remember.

2 Q. Does he try to hurt you?

3 A. No.

4 Q. Does he attack anybody else, that you can recall?

5 A. I can't recall.

6 Q. And waving the gun around?

7 A. Well, when he was acting crazy.

8 Q. Yes.

9 A. This is on the Avenue, 6th, on Elizabeth Avenue.

10 Q. Between Puerto Ricans and when the man actually gets  
11 shot is he waving the gun around?

12 A. Repeat that again.

13 Q. After you leave from trying to get the Puerto Rican  
14 boys, Antwan starts acting crazy, right?

15 A. Yes, that's when.

16 Q. Simple question. Ultimately, you say Antwan shoots  
17 the man at the liquor store, right?

18 A. Yes.

19 Q. In between those two things was Antwan waving the gun  
20 around as he was walking from the Puerto Rican boys to where he  
21 shoots Mr. Saraiva?

22 A. No. I think, I am not for sure, but I think Renee, I think  
23 she told him put the gun back in his pocket or he just did it  
24 his self.

25 Q. Did you tell him to put the gun in his pocket?

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1 A. No.

2 Q. Did he talk about what he was going to do from  
3 inbetween Puerto Rican boys to where he does the shooting?

4 A. No.

5 Q. What is he talking about at that point in time?

6 A. I don't remember exact words.

7 Q. Did he -- The next time he takes the gun out is when?

8 A. That's when we got on Seventh and East Jersey. It was like  
9 on the side of the pharmacy, pharmacy on the corner.

10 Q. Are you sure he doesn't take the gun out any other  
11 times other than what you have told us?

12 A. I don't remember.

13 Q. Yesterday you told us that he was going to shoot some  
14 police, do you remember that?

15 A. Yes.

16 Q. You didn't remember that today? Is there a reason?

17 A. You are throwing so many questions at me I just forgot.

18 Q. Am I throwing the questions at you like Detective  
19 Koczur was throwing questions at you?

20 A. No.

21 Q. Where did he try to shoot the police?

22 A. This is on, I don't remember the street, but this is like  
23 pizza store, name of Alan Pizza.

24 Q. Is this before or after the attack on the Puerto Rican  
25 boys?

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1 A. This was after.

2 Q. Somewhere between attack on the Puerto Rican boys and  
3 the shooting that's when he was going to shoot the police?

4 A. He was going to shoot at the police.

5 Q. Shoot at the police?

6 A. Yes.

7 Q. So he does take the gun out then.

8 A. That's when he took the gun off safety and he says  
9 something to, told the girls look out, he was going to shoot at  
10 the cops. Then that's when cops passed by, or something, he  
11 just put the gun back on safety and put the gun back in his  
12 pocket.

13 Q. Isn't it true the reason you didn't remember that just  
14 now is because you didn't remember that happening at all?

15 A. It happened.

16 Q. You remember your first statement to the police?

17 A. First statement?

18 Q. First statement to the police?

19 A. Yes.

20 Q. Do you remember ever making reference to that at all  
21 about that incident?

22 A. No.

23 Q. It's not in there at all?

24 A. No.

25 Q. In fact you subsequently, you later on give a second

MARVIN MATHIS - CROSS BY KOLANO

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1 statement?

2 A. Yes.

3 Q. And you don't make reference to that at all?

4 A. No.

5 Q. Now, in your first statement you never mentioned that  
6 Antwan was acting crazy, right?

7 A. No.

8 Q. And in the second statement you never mention that  
9 Antwan is acting crazy, right?

10 A. I think so. Yes.

11 Q. You think you did in the second statement?

12 A. Yes.

13 Q. Do you remember where?

14 A. No.

15 Q. What do you remember saying?

16 A. I don't remember.

17 Q. Now, at this point you are afraid?

18 A. What, at that point?

19 Q. Yes.

20 A. When the cops pass by? Yes, I was sort of afraid.

21 Q. And then after that the cops go by without incident,  
22 and now he asks you to be a lookout?

23 A. No.

24 Q. When does he ask you to be a lookout?

25 A. That's when we start walking again, that's when we went on

MARVIN MATHIS - CROSS BY KOLANO

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1 Seventh and East Jersey.

2 Q. And at that point what happens?

3 A. That's when we by the pharmacy, and he notice the man.  
4 Then he told he is going to get this man. He told Renee to be  
5 a lookout for him -- I forgot what else. Then he asked me to  
6 be a lookout. I said no.

7 Q. Let me stop you there. Does he want you to take the  
8 gun at that point?

9 A. No.

10 Q. Before didn't you say that he wanted you to take the  
11 gun at the pharmacy?

12 A. No.

13 Q. He wanted you to take the gun after the event?

14 A. After the event.

15 Q. Do you know why now all of a sudden after three  
16 robbery attempts this time he wanted the girls to be a lookout,  
17 did he say why?

18 A. No.

19 Q. Did he ask you to be a lookout?

20 A. Yes.

21 Q. This is the fourth robbery of the night, this is first  
22 time he asked you to be a lookout.

23 A. Yes.

24 Q. You tell him no?

25 A. Yes. That's when he said just be a lookout for him.

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1 Q. Aren't you at this point deathly afraid of him?

2 A. Was I afraid of him?

3 Q. Yes.

4 A. I was scared, yes.

5 Q. But yet you told him no. Why?

6 A. I told him I wasn't going to do it. Then he just told me  
7 just do it.

8 Q. Weren't you afraid he was going to shoot you by  
9 telling him no because he was acting crazy?

10 A. I don't remember.

11 Q. Well, Mr. Mathis, on the one hand you are saying you  
12 weren't thinking, you went along with all of these actions.

13 A. Yes.

14 Q. On the other hand you are saying you didn't leave  
15 because you were afraid he was going to shoot you.

16 A. Yes. That's when I told you he start acting crazy, I was  
17 scared.

18 Q. When he asked you to participate in a robbery by being  
19 a lookout you are not afraid, you are not scared, you say no.  
20 Right?

21 A. Yes.

22 Q. And he doesn't shoot you?

23 A. He just looked at me, and told me just do this.

24 Q. Did you do it?

25 A. No.

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1 Q. Okay. So even though he looked at you, that didn't  
2 intimidate you, right?

3 A. No, not really, no.

4 Q. And the girls, they said no also?

5 A. They didn't say nothing.

6 Q. Did the girls end up being lookouts?

7 A. I wasn't looking at them.

8 Q. Were you a lookout?

9 A. No.

10 Q. If you were brave enough to tell him no, you wouldn't  
11 participate, why didn't you just leave at that point?

12 A. I was -- I wasn't thinking.

13 Q. Mr. Mathis, how much thinking does it take to know  
14 this man is about to do an armed robbery, let me get the heck  
15 out of here because I am not down with it?

16 A. I wasn't thinking.

17 Q. You don't stop him, do you?

18 A. No.

19 Q. You don't tell him no, don't do the robbery?

20 A. No.

21 Q. You just tell him you are not going to be a lookout?

22 A. Yes.

23 Q. According to your testimony there were three other  
24 robbery attempts on three other times. You say, Antwan, don't  
25 do it, and he obeyes, right.

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1 A. Yes.

2 Q. But this time you don't tell him not to do it?

3 A. Yes.

4 Q. Is there a reason why you didn't stop him again?

5 A. I stopped him when, when they was struggling, but at that  
6 time, no.

7 Q. You were at the corner of Chinese store when the first  
8 shot goes off?

9 A. No.

10 Q. Where were you?

11 A. I told you I was by this brown building between this door.

12 Q. Can you demonstrate the struggle for us?

13 A. (Pause.) No.

14 Q. Where are Renee and April when the struggle begins?

15 A. Across the street. I wasn't, I wasn't looking at them. I  
16 was too busy looking at the man and Antwan struggling. That's  
17 when Antwan went over there, and he told the man run his  
18 pockets, something like that.

19 Q. You knew run his pockets meant empty his pockets?

20 A. Yes.

21 Q. Did Antwan have the gun at that point?

22 A. No.

23 Q. Where was the gun at that point?

24 A. It was still on him.

25 Q. Where on him?

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1 A. I don't know. It was on his waist or something, I don't  
2 know.

3 Q. Did Antwan put the gun away after he was going to  
4 shoot at the cops or threaten to shoot at the cops?

5 A. Yes, he put it somewhere, I don't know.

6 Q. Then he goes up to the guy and says run your pockets,  
7 right?

8 A. Goes up to the man and say run his pockets.

9 Q. Isn't that the language you used, run the pockets?

10 A. Yes, that's when he told the man run his pockets. The man  
11 looked at him, didn't pay him no mind. And then he grabbed  
12 him, Antwan grabbed him.

13 Q. With one hand or two?

14 A. I am not for sure. I think it was one.

15 Q. And this was before the man punched?

16 A. Soon as Antwan grab him the man grabbed him. That's when  
17 the man threw a punch, then Antwan threw a punch back at the  
18 man. Then, excuse me, soon the man punched him Antwan like  
19 pushed him off, pushed off him, and pulled the gun out. And  
20 that's when the man seen the gun, his eyes got big, that's when  
21 the man grabbed the gun, he was struggling, like, grabbed his  
22 hand with the gun or something.

23 Q. Why didn't you intervene before the gun was pulled out  
24 to stop Antwan? Why didn't you try to stop Antwan before he  
25 pulled the gun out?

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1 A. I didn't know he was going to pull the gun out.

2 Q. If it was just going to be a beating type of robbery  
3 it was okay? It was only when it involved the gun?

4 A. No.

5 Q. Then, again I will ask you.

6 A. I would have stopped him then, too.

7 Q. But you didn't stop him until you heard the shot and  
8 struggle with the gun?

9 A. Yes.

10 Q. At this point the second shot is fired, you are  
11 struggling with Antwan?

12 A. Yes.

13 Q. And where do you go from there?

14 A. Soon as shot went off, first I ran over, What are you  
15 doing? Soon I grabbed his, grabbed his, his coat jacket,  
16 sleeve, that's when the gun went off, and that's when the man  
17 fell. Then soon man fell I looked, you know, I was shocked.  
18 Then Antwan looked at the man, his eyes got big, and he  
19 snatched me and told me Come on. We ran to Seventh Street, and  
20 while we was running he told me to hold the gun. I just looked  
21 at him, I just, I didn't take the gun. I just continue  
22 running, I just continue on running.

23 Q. Did Antwan go into the man's pockets?

24 A. I don't know.

25 Q. Do you remember testifying yesterday that he didn't?

MARVIN MATHIS - CROSS BY KOLANO

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1 A. No. Did he? No, he didn't.

2 Q. Well, Antwan did not go into the man's pockets, right?

3 A. No.

4 Q. And yesterday you told us that Antwan did not go into  
5 the man's pockets, right?

6 A. No.

7 Q. You didn't?

8 A. Didn't go into his pockets.

9 Q. But didn't you tell the police Antwan did go into his  
10 pockets?

11 A. (Pause) I don't know.

12 Q. Please look at your first statement, and on page five  
13 of that statement:

14 "Question: Did you see Antwan remove anything from  
15 the man's pockets?

16 "Answer: Yes.

17 "Was this before or after he was shot?

18 "Answer: After he was shot.

19 "Question: Which pocket did he, Antwan, go through?

20 "I seen him in his front pockets.

21 "Did he remove anything from this man's pockets?

22 "I seen something, but I don't know what it was.

23 "Question: Earlier in the interview you stated you  
24 saw Antwan remove a wallet. Is that correct?

25 "Yes.

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1 "Question: Where did he take that wallet from?

2 "Answer: I think his right back pocket."

3 You told us today and yesterday that Antwan did not go  
4 into his pocket, yet you told the police in a sworn statement  
5 that he did. Why the lie? Or which one is the lie?

6 A. This, this first statement.

7 Q. Right.

8 A. This one, no.

9 Q. But those were the words you told the police.

10 A. Yes.

11 Q. Why did you tell the police that lie at that time?

12 You made Antwan look worse, don't you agree?

13 MR. FLORCZAK: Two questions there.

14 MR. KOLANO: I will break it up.

15 Q. Don't you agree in this statement you were making  
16 Antwan look worse?

17 A. They was confusing me, they was like pulling questions,  
18 throwing questions at me, you know. I just said anything.

19 Q. By saying anything you were hurting your friend Antwan  
20 by saying he took this man's wallet, weren't you?

21 A. I don't know.

22 Q. So, again, these are basically lies, and you were just  
23 confused?

24 A. Yes.

25 Q. Now, after you were running away, that's when Antwan

MARVIN MATHIS - CROSS BY KOLANO

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1 asked you to hold the gun?

2 A. Yes.

3 Q. Did Antwan throw away the wallet at that point in  
4 time?

5 A. I don't know.

6 Q. Did Antwan throw away the wallet at that point in  
7 time?

8 A. I don't know. You just asked me that question.

9 Q. Well, no. This is when you are running away.  
10 Did Antwan discard the wallet after taking the money out?

11 A. I don't know.

12 Q. Turn to page six of that statement, please.

13 Now, it says: "As you were running from the scene which  
14 way did you flee?

15 "Answer: Straight up Seventh, turned by Court."

16 Is that true?

17 A. Yes.

18 Q. So you weren't confused when you gave that answer,  
19 right?

20 A. No.

21 Q. "Where was the gun at this time?

22 "Answer: Still with Antwan."

23 Is that true?

24 A. Yes.

25 Q. So you weren't confused with that answer, right?

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1 A. No.

2 Q. "Question: Where was the wallet at this time?

3 "Answer: Antwan was emptying it and then he threw  
4 it."

5 Is that true?

6 A. I don't know. I can't, you know, I can't say, I don't  
7 know.

8 Q. It's either true or it's not.

9 A. I think it's not true.

10 Q. So at this point you were confused, you were confused  
11 by the question?

12 A. Yes, I was scared.

13 Q. "Question: Where did he throw the wallet?"

14 Towards Court, under a car. That's what you told the  
15 police.

16 A. Yes.

17 Q. And that was also a lie in this sworn statement?

18 A. Yes.

19 Q. Your testimony now is that he never removed the  
20 wallet, right?

21 A. No, he never had the wallet, not --

22 Q. Afterwards you go to Migdalia's house?

23 A. No.

24 Q. You go straight home?

25 A. Yes.

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1 Q. Now at this point you are permitted to leave Antwan's  
2 company, according to your testimony?

3 A. Soon we turned on Court my house was like, like next  
4 street.

5 Q. Didn't you think he was going to shoot you if you left  
6 his company?

7 A. He was too busy running. I don't think he noticed when I  
8 left him.

9 Q. And you weren't afraid to leave him, right?

10 A. I was scared, I ran home.

11 Q. You were scared the whole night. You didn't run home  
12 before the robbery or killing?

13 A. No.

14 Q. And did you ever see Antwan again after that?

15 A. No.

16 Q. So Antwan never threatened you after this event,  
17 right?

18 A. No.

19 Q. When you go home do you tell your mother what  
20 happened?

21 A. No. I ran in the house, you know, I ran to her. She like  
22 What wrong with you? I didn't say nothing. She knew something  
23 happened like the way I was looking. Then I went in the room  
24 and closed the door.

25 Q. And the next day you go to school?

MARVIN MATHIS - CROSS BY KOLANO

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1 A. Yes.

2 Q. And you go school like nothing happened?

3 A. Yes.

4 Q. Now, that night, after you get home, you don't tell  
5 your mother what happened, right?

6 A. Yes.

7 Q. Do you tell anybody what happened?

8 A. No.

9 Q. You don't call the police and tell them that I just  
10 saw Antwan shoot somebody?

11 A. They arrest me the 24th.

12 Q. No, no. Stay with me. Right after the robbery,  
13 killing --

14 A. Yes.

15 Q. -- you go home?

16 A. Yes.

17 Q. Do you have a phone at home?

18 A. No, not at that time.

19 Q. Did you have access to a phone?

20 A. Did I have access to a phone? No.

21 Q. You go to sleep, and then you wake up the next morning  
22 and go to school, right?

23 A. Yes.

24 Q. Do you tell anybody in school what you had witnessed?

25 A. No.

MARVIN MATHIS - CROSS BY KOLANO

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1 Q. Is there a reason why you didn't?

2 You knew what Antwan had done was wrong?

3 A. Yes.

4 Q. In fact, according to you, you tried to stop it  
5 because it was wrong?

6 A. Yes.

7 Q. But you don't tell on him. Why?

8 A. I didn't say nothing.

9 Q. You saw teachers that morning, right, on the 23rd?

10 A. Yes.

11 Q. You don't tell any of them?

12 A. They was --

13 Q. Simple question.

14 A. No.

15 Q. Do you tell any teachers?

16 A. No.

17 Q. Do you tell any other students?

18 A. No.

19 Q. You knew there were police assigned to the school.

20 Did you talk to them?

21 A. No, I didn't know there was police assigned to school at  
22 that time. No.

23 Q. So that entire day, according to you, you don't tell  
24 anybody what Antwan had done?

25 A. Yes. I kept it to myself.

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1 Q. Why?

2 A. I just kept it to myself.

3 Q. If you can, tell us why you kept it to yourself?

4 A. I can't explain. I just kept it to myself.

5 Q. That's the 23rd. Do you talk to Sharlama that day?

6 A. I talked to her, yes.

7 Q. She was your girlfriend at the time?

8 A. Yes.

9 Q. You got along fine?

10 A. We had our misunderstandings.

11 Q. Do you tell her on that day that you wanted her to be  
12 a false alibi for you?

13 A. No.

14 Q. You heard her testify, right?

15 A. Yes.

16 Q. You heard her testify that on that day you did ask her  
17 to say that you were with her, right?

18 A. Yes, I heard.

19 Q. And you would disagree totally with what she says  
20 about that point, right?

21 A. Yes.

22 Q. And in fact you had read her statement as part of  
23 discovery, right?

24 A. Yes.

25 Q. And she told the police that right from the get-go

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1 that you had asked her to be a false alibi, right?

2 A. Yes.

3 Q. And you would disagree with that completely also,  
4 right?

5 A. Yes.

6 Q. But you did tell her what?

7 A. I told her if anyone asked where I was at that she don't  
8 know.

9 Q. So if I understand, you go up to Sharlama, your  
10 girlfriend, out of the blue, By the way, if anybody asks where  
11 I was last night just tell them you don't know?

12 A. Yes, because she approached me. She just, you know, I  
13 don't remember what she asked me. I said anybody asks where I  
14 was at say you don't know.

15 Q. That would be the truth, right, according to you?

16 A. Yes.

17 Q. Why did you feel compelled to tell her that she had to  
18 tell the truth?

19 A. Excuse me?

20 Q. Why did you feel it was necessary to tell her to just  
21 simply tell the truth?

22 A. I don't know.

23 Q. Now, the next day, the 24th, the day you got arrested --

24 A. Yes.

25 Q. -- did you talk to Sharlama that morning?

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1 A. Yes.

2 Q. In fact, let me back up.

3 When she approached you did she ask you if you were  
4 involved in a murder?

5 A. No.

6 Q. She never mentioned that some people -- ?

7 A. She said --

8 Q. Let me finish.

9 She had never come to you and said some people said that  
10 you were a murderer, and some people got wrongly locked up?

11 A. She told me some -- I don't know. She said something, she  
12 was like -- I don't remember exact words she asked me. I can't  
13 really say.

14 Q. Do you remember telling her that you couldn't tell her  
15 because she would black out?

16 A. No. I don't remember that.

17 Q. So it's something you could have said you don't  
18 remember, or you didn't say?

19 A. I just don't remember.

20 Q. Now, at this point in your mind you didn't do anything  
21 wrong, right? You were just a witness to a murder, right?

22 A. I guess.

23 Q. And isn't it true, then you told Sharlama that you  
24 shot the man accidentally?

25 A. No.

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1 Q. You know that Sharlama gave a statement to that  
2 effect, right?

3 A. Yes.

4 Q. And you disagree with that?

5 A. Yes.

6 Q. And you saw Sharlama come here and testify?

7 A. Yes.

8 Q. And you disagree with that, right?

9 A. Yes.

10 Q. And you saw the guidance counselor, Miss Sutton,  
11 testify and testify as to what Sharlama told her while she  
12 broke down in tears?

13 A. Yes.

14 Q. Did you ever do anything to this guidance counselor to  
15 hurt her?

16 A. Guidance counselor?

17 Q. Yes.

18 A. I never seen, I seen her but I --

19 Q. As far as you know, you didn't give her any motive to  
20 testify against you falsely?

21 A. Yes.

22 Q. Same thing with Sharlama. She was your girlfriend?

23 A. Yes.

24 Q. On your statement, page seven, you indicated to the  
25 police you walked right by your house after you knew robberies

MARVIN MATHIS - CROSS BY KOLANO

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1 were going on, is that right?

2 A. You just asked me that earlier and I told you.

3 Q. And your answer was what?

4 A. That I passed my house, yes, I passed by my house.

5 Q. Now, on page 8, it then says:

6 "Question: What was said?

7 "Answer: He was like he said, quote, if you say  
8 something I will kill you. And I thought he was joking, and he  
9 said he wasn't.

10 "Question: Is this the only time you spoke to  
11 Antwan since the shooting?

12 "Yes".

13 Now, that's a lie too, isn't it?

14 A. Huhh?

15 Q. That's a lie too, isn't it?

16 A. Yes.

17 Q. Because you told the police that you were involved  
18 because Antwan threatened you?

19 A. Yes.

20 Q. But Antwan didn't threaten you?

21 A. Yes.

22 Q. Why did you tell the police Antwan threatened you if  
23 he didn't threaten you?

24 A. I don't know.

25 Q. Isn't it true because you thought that would make it

MARVIN MATHIS - CROSS BY KOLANO

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1 easier for yourself if you were threatened or forced?

2 A. No.

3 Q. You weren't covering yourself by saying I did this  
4 because I was forced to do it or I was threatened to do it?

5 A. No.

6 Q. "Question: Did you tell Sharlama that you shot the  
7 man by accident?

8 "Answer: Yes."

9 A. I didn't say that.

10 Q. But you said that in your statement. So that would be  
11 a lie also?

12 A. I never told him that, no.

13 Q. That the police made up as far as you are concerned?

14 A. Yes.

15 Q. So in this statement that we are going through almost  
16 line by line the police are accurate up until this point as to  
17 putting down what you said, right?

18 A. Yes.

19 Q. And you basically are saying the only thing that you  
20 were confused, you said these words but you said you were  
21 confused and scared?

22 A. Confusing me, plus I was really saying anything just to get  
23 it over with.

24 Q. But this particular question,

25 Did you tell Sharlama that you shot the man by accident?

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1 Yes.

2 That you never said?

3 A. I never said yes, I never said no. I just shook my head, I  
4 said no.

5 Q. So you shook your head no?

6 A. No.

7 Q. But the police put in yes?

8 A. Yes.

9 Q. As far as you are concerned just a coincidence that's  
10 what Sharlama testified to?

11 A. Yes.

12 Q. "Question: Why did you say that?

13 "Answer: Because Antwan told me to say it. Then he  
14 said if I didn't say it he would kill me."

15 Now, is that true?

16 A. No.

17 Q. We know that's true because Antwan never threatened  
18 you?

19 A. Yes.

20 Q. Here you are telling the police that the reason you  
21 told Sharlama, admitted, confessed to Sharlama that it was an  
22 accident is because Antwan told you to say it, right?

23 A. Say it again.

24 Q. The reason that you told the police that you told  
25 Sharlama it was an accident is because Antwan threatened you,

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1 right?

2 A. Yes.

3 Q. But Antwan didn't threaten you?

4 A. No.

5 Q. And this second question, Why did you say that? And  
6 answer, Because Antwan told me to say it. Then he said if I  
7 didn't say it he would kill me. That came, those words came  
8 out of your mouth, right?

9 A. No. Not really.

10 Q. Those were the words police made up?

11 A. They was like, I can't really say, you know, I don't  
12 remember what I told exactly. I know they was like putting  
13 words in my mouth.

14 Q. Well, if Antwan threatened you you would agree that  
15 also makes Antwan look bad, doesn't it?

16 A. Yes, you can say that, yes.

17 Q. The next question: The boy from Carteret, what was he  
18 wearing at that time?

19 "Answer: A black Columbia jacket, purple around the  
20 neck, light blue jeans, brown Timberlines."

21 Is that accurate?

22 A. Yes.

23 Q. Not only did you lie, I mean you lied in living color,  
24 when you gave a full wardrobe of what the man had?

25 A. Yes.

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1 Q. That was all out of your own imagination, out of your  
2 own head?

3 A. Yes.

4 Q. Was he wearing sneakers, Timberlines?  
5 And you gave the answers?

6 A. Yes.

7 Q. Now, on page nine --

8 Mr. Mathis, do you remember testifying yesterday that the  
9 police wanted to go to your house and look for the gun?

10 A. Yes.

11 Q. That's not true, is it? Isn't that a lie that you  
12 told to this jury yesterday?

13 A. What?

14 Q. That the police never said they wanted to go to your  
15 house to look for a gun?

16 A. I never said that.

17 Q. Didn't you testify yesterday that the police asked  
18 your permission and your mother's permission to go to your  
19 house?

20 A. Yes.

21 Q. And that the purpose was to go to look for the gun?

22 A. Yes. And look for gun and clothes I had on that night.

23 Q. Now, isn't it true that what they really wanted to get  
24 at the house was the beeper number for Antwan? Right?

25 MR. FLORCZAK: I object to what they wanted. He is

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1 being asked to testify what somebody else wanted.

2 MR. KOLANO: No. What was said.

3 MR. FLORCZAK: I didn't hear What was said.

4 THE COURT: Question will be rephrased.

5 Q. Police told you that what they wanted was to go to  
6 your house to get the pants and to get the beeper number for  
7 Antwan, right?

8 A. They asked me do I have a number, do I have a phone number  
9 of Antwan or beeper number, something like that. Then they  
10 asked me clothes I had on that night, where they at now. I  
11 told them they are home.

12 Q. So at that point you are the first person to mention,  
13 at that point you are mentioning Antwan as being the person  
14 responsible for this robbery and killing, right?

15 A. Yes.

16 Q. And the police are trying to identify Antwan, right?

17 A. Yes.

18 Q. And they want your help in identifying Antwan?

19 A. Yes.

20 Q. And you told them you have a beeper number for Antwan?

21 A. They asked me do we have a number or beeper number, do we  
22 have a beeper or something, his number. And I told them I had  
23 before, but I didn't know, I probably misplaced. They asked do  
24 I know by heart, and I said no. Then they was like you think  
25 if we go to your house get that beeper number, and get the

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1 clothes that you had on, and search, search the house to see if  
2 there is a weapon in the house, would I allow. I said yes.  
3 They asked my mother. She said it was okay. And that's when  
4 she, one of the detectives, I don't know, --

5 Q. Page 9.

6 "Question: In the event you had to contact Antwan,  
7 how would you reach him?

8 "Answer: Pager."

9 Is that true?

10 A. I don't know.

11 Q. Well, how could you get in contact with Antwan? Would  
12 you use a pager?

13 A. Yes.

14 Q. So that part of this first statement is true. Right?

15 A. Yes.

16 Q. You weren't so confused that you couldn't slip in a  
17 little bit the truth here, right?

18 MR. FLORCZAK: I object.

19 THE COURT: Sustained.

20 Q. You weren't confused at this question, right?

21 A. No.

22 Q. "Question: What is the pager number?

23 "Answer: I don't know it by heart."

24 Is that true?

25 A. Yes.